

REMARKS

Upon entry of the present paper, the Claims under consideration remain 1-20. Applicants respectfully request reconsideration of all outstanding rejections and withdrawal of the finality of the Office Action dated 10 June 2004 and entry of the present amendment. In the alternative, the present amendments should be entered to clarify any ambiguity of subject matter and to clarify the issues and place the claims in better condition for appeal. Claim 1 has been amended hereby to remove any ambiguity with respect to interpretation of the present Claims. The Detailed Action of 10 June 2004 will now be addressed with reference to the headings and any paragraph numbers therein.

Request For Withdrawal Of Finality

Applicants respectfully submit that the finality of the last action is improper and should be withdrawn. According to § MPEP 706.07(a), finality is not proper when the Examiner has introduced a new ground of rejection not necessitated by Applicant's amendment or an Information Disclosure Statement. Applicant's previous Amendment A did not change the substance or subject matter of the Claim 1, but merely clarified the language in response to Examiner's previous §112 rejections. No intervening Information Disclosure Statement was submitted between Amendment A and the second Office Action of 10 June 2004. Art not previously of record, i.e. Pike *et al.*, US Patent 5,382,400 (hereinafter Pike) was applied in making the final rejections under 35 USC § 103. Therefore, Applicants respectfully request that the finality of the action be withdrawn and the present amendments be entered as a matter of right.

Claim Rejections -35 USC §103

Per paragraph 3 of the Detailed Action, Claims 1-19 stand as obvious over Pike (*supra*) in view of PCT Application WO 00/29658 (hereinafter WO '658) and Jackson *et al.* (U.S. Patent 5,350,370, hereinafter Jackson).

As the basis for this rejection, it is clear that the Detailed Action has unreasonably interpreted a latent ambiguity from the claim language contrary to the teachings of the specification.

Per MPEP 2101.01, the PTO is to apply “to verbiage of the proposed claims the broadest reasonable meaning taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant’s specification.” [emphasis added] from *In re Morris*, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Proper interpretation of Claim 1, and in a manner contrary to that put forth in the Detailed Action, is clearly supported in the specification, especially at Fig. 1 where an entrainment chute 24 is shown in the upper half of the FDU 25 and even more clearly at Fig. 2 where the entrainment chute 24 is shown in the upper half of the FDU 25 above the specifically labeled divergence point 55. The proper interpretation is further supported in the specification text, as e.g.,
at page 4, line 10:

In particular, during formation, or mixing, or both, of the components of the web, particular techniques are used within a fiber distribution unit (FDU) in order to ensure the proper distribution of components so that the absorbents are evenly distributed and may thereby be efficiently attached at high percentage rates to the thermoplastic filaments of the web when deposited on the forming wire and subsequently processed. [emphasis added]

and at page 4, line 18:

Specifically, in the making of thermoplastic fibers, whether spunbond, or meltblown, the fibers are drawn by an airstream in the FDU. It has been discovered that by introducing the absorbent material, or particles, in a stream of fluid, e.g. air, to commingle with the thermoplastic fibers at a point in the FDU above where the fibers begin to diverge within the FDU and cyclonic fluid streams are produced, the fibers will not separate to a great degree from the absorbent particulates during transit to the forming wire. This technique results in a more homogenous mixture and even distribution of the thermoplastic and absorbent components. [emphasis added]

As properly interpreted, in accordance with the proposed amended Claims, a conclusion of obviousness could only be reached through the cited art references by using presumptions that are incorrect and informed by knowledge of the present invention

As admitted by the Detailed Action at its paragraph 3, Pike does not teach introducing absorbent particles into a fiber draw unit via a stream of heated air (see page 3, line 11 of Detailed Action). However, the Detailed Action then would reach the unsupported conclusion that because WO '658 "teaches air-injecting SAP and pulp to an extruded array of bi-component filaments, while the filaments are still 'hot and tacky' and before the filaments are deposited onto a forming conveyor; and, further teaches the desirability of forming crimp (sic) filaments [cite omitted] it would have been obvious in the art to introduce SAP and pulp fibers into a fiber draw unit via a stream of heated air."

Indeed the interpretation of the claims and analysis of obviousness currently

ignores the limitation of where the particles are added in the process per Claim 1.¹ Neither WO '658 nor Jackson adds a specific teaching of the operations of a fiber draw unit. At page 10, line 3 WO '658 discusses coform operations where melt blown fibers are added at a chute through which other materials (pulp) are added while the web is forming. The cited text of WO '658, page 11, first paragraph, discusses the mixing of three material streams (spun bond, melt blown and pulp). It is generally known that melt blown fibers can be hot and tacky when they are deposited on a collection surface. Therefore "hot and tacky" does not imply to one of skill in the art a location within a fiber draw unit. Thus, no obviousness with respect to fiber draw unit operation can be drawn. Therefore, any assertion that a web formed of "three streams" according to WO '658 would suggest the limitations of the present claims is unsupported. Jackson also does not contain pertinent discussion of the operations of an fiber draw unit and is not believed to add further evidence for a conclusion of obviousness for the present invention

Without implication as to the meaning or breadth of claims in the cited references, because none of the cited references discuss fiber draw unit operations sufficient to suggest the present invention, there is no *prima facie* evidence that any combination of the references suggests the limitations of the present invention, particularly when the claims are viewed as a whole. Therefore, Pike, WO '658 and Jackson cannot and do not render the present invention obvious, either singly or in combination. It is therefore respectfully requested that the present rejections be withdrawn.

¹ Applicants again note that Claim 1 has been amended hereby to remove any ambiguity in the interpretation of its method steps.

With respect to Claims 2-20, Applicants herewith incorporate their discussion with respect to the inapplicability of Pike, WO '658 and Jackson to Claim 1 as a whole. As Claims 2-20 incorporate all limitations of Claim 1, they are also believed to define over the cited art. It is therefore respectfully requested each of the present rejections be withdrawn.

Per paragraph 4 of the Detailed Action, Claim 20 stands as obvious over the references set forth in numbered paragraph 9 (sic), presumably Pike, WO '658 and Jackson, and further in view of Haynes *et al.* (U.S. Patent 6,019,152, hereinafter Haynes). Applicants incorporate their discussion with respect to the inapplicability of Pike, WO '658, and Jackson to Claim 1. Without implication as to the meaning or breadth of claims in the Haynes reference, after careful study of Haynes, it is believed that Haynes teaches an improvement in the apparatus of hot air knives which may be suitable for through-air bonding. The text of Haynes does not discuss the operations of an fiber draw unit and is not believed to add further evidence for a conclusion of obviousness for the present invention. It is therefore respectfully requested that the present rejection be withdrawn.

Thus a *prima facie* case has not and cannot been made for the present rejections. It is therefore respectfully requested that all rejections be withdrawn.

Conclusion

For all the foregoing reasons, the Claims as presently amended are believed to be allowable over the art of record. A notice to that effect is earnestly solicited.

Request For Telephonic Interview

Clearly, there are differences between the present invention and the cited reference(s) involving patentable subject matter. These differences are believed by the

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Applicants to be properly defined in the present Claims. The Examiner is requested to call Applicants' attorney (per the provisions of M.P.E.P. § 713) to discuss any further problems or suggest solutions in defining the present invention in order to expedite the case towards allowance before issuing a final Office Action.

Favorable consideration is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roland W. Norris". The signature is fluid and cursive, with the first name "Roland" and last name "Norris" being clearly distinguishable.

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